

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**In the Matter of**

Second Periodic Review of the Commission's  
Rules and Policies Affecting the Conversion to  
Digital Television

MB Docket No. 03-15  
RM 9832

Public Interest Obligations of Digital Television  
Broadcast Licensees

MM Docket No. 99-360

Children's Television Obligations of Digital  
Television Broadcasters

MM Docket No. 00-167

Standardized and Enhanced Disclosure  
Requirements for Television Broadcast  
Licensee Public Interest Obligations

MM Docket No. 00-168

To: The Commission

**COMMENTS OF NATIONAL MINORITY T.V., INC.  
ON NOTICE OF PROPOSED RULE MAKING**

National Minority T.V., Inc. ("NMTV") hereby submits its comments in response to the Notice of Proposed Rule Making, FCC 03-8, released January 27, 2003 in the above-captioned proceeding.

NMTV concurs with the Commission's tentative conclusion that the language of Section 309(j)(14) mandates the use of Designated Market Area ("DMA") to define "television market" in the statute. *NPRM* at ¶ 73. NMTV also agrees with the Commission that such a definition makes it "difficult, if not impossible" for any market to meet the 15 percent test of Section 309(j)(14)(B)(iii). *NPRM* at ¶ 75. NMTV submits that in order to reconcile this conflict and to expedite the digital transition, the Commission must act to guarantee cable carriage of DTV signals. Stations will expend capital on the DTV transition more quickly and willingly if they

know that such investment is accompanied by cable carriage of their DTV signals throughout a market.

Section 309(j)(14)(B)(iii) requires the Commission to grant an extension of a station's analog license to any station in a market where 15 percent or more of the television households in that market do not subscribe to a multichannel video programming distributor ("MVPD") that "carries one of the digital television service programming channels of each television station broadcasting such a channel in a market" and do not have a television receiver capable of receiving the digital television signal of the television stations licensed to that market or a digital-to-analog converter capable of receiving the digital signals of the station licensed in that market. The NPRM requested comment on the definition of "television market" under Section 309(j)(14)(B). *NPRM* at ¶ 72.

Defining "television market" as the DMA in which a station requesting an extension request is located, although problematic, is the only permissible interpretation under the statute. As the NPRM correctly points out, defining "market" as a station's Grade B contour creates even greater problems in terms of consistency, administration, and, ultimately, appears to be contrary to the intent of the statute. *Id.* at 74. Finally, defining market to mean a station's DMA corresponds to the definition of "television market" in the Commission's rules, *see* 47 C.F.R. § 76.55(e), and the definition of "local market" in the Satellite Home Viewer Improvement Act ("SHVIA"). *See* 47 U.S.C. § 338; 17 U.S.C. § 122(j).

Unfortunately, the Commission is also correct when it notes that "cable systems almost never carry all stations in the DMA." *NPRM* at ¶ 76. What the Commission should have added to that statement is that currently, hardly any cable systems carry digital television signals.

NMTV submits that broadcast stations have little incentive to accelerate their transition to digital unless the Commission requires cable systems to carry digital broadcast signals as the

consumer electronics industry has shown no willingness to produce receivers for over-the-air digital broadcast signals. NMTV also submits that the Commission will be required to grant blanket extension requests to the majority of markets under the 15 percent test, thereby delaying the reclamation of analog spectrum.

Conversely, were the Commission to require cable carriage of digital signals, stations would invest more heavily in the digital transition. Innovative, higher quality, and more powerful digital programming and signals would begin at an earlier date. Furthermore, a digital must-carry rule would substantially reduce the number of extensions granted under the 15 percent test—this would save the Commission resources and expedite the auction of analog spectrum.

In conclusion, National Minority T.V., Inc. submits that this simple economics lesson provides the Commission an effective roadmap to the end of the digital transition. Cable must-carry for digital broadcast signals is the most effective and feasible tool for accomplishing the Commission's numerous and admirable goals as expressed in the NPRM.

Respectfully submitted,

\_\_\_\_\_/s/  
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